

ORIGINAL

Approved: S. Mortazavi  
 SARAH MORTAZAVI  
 Assistant United States Attorney

Before: HONORABLE JAMES L. COTT  
 United States Magistrate Judge  
 Southern District of New York

- - - - -	X	<b>18 MAG 105 76</b>
UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
- v. -	:	Violations of 8 U.S.C.
AUSENCIO NAZARIO ORTIZ,	:	§ 1326(a)
	:	COUNTY OF OFFENSE:
Defendant.	:	NEW YORK
- - - - -	X	

SOUTHERN DISTRICT OF NEW YORK, ss.:

BYUNG K. KIM, being duly sworn, deposes and says that he is a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement, and charges as follows:

COUNT ONE  
 (Illegal Reentry)

1. From at least on or about June 25, 2018, in the Southern District of New York and elsewhere, AUSENCIO NAZARIO ORTIZ, the defendant, being an alien, unlawfully did enter, and was found in, the United States, after having been removed from the United States, without having obtained the express consent of the Attorney General of the United States or his successor, the Secretary for the Department of Homeland Security, to reapply for admission.

(Title 8, United States Code, Sections 1326(a).)

The bases for my knowledge and the foregoing charge are, in part, as follows:

2. I am a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs

Enforcement ("ICE"), and I have been personally involved in the investigation of this matter. This affidavit is based in part upon my conversations with law enforcement agents and others and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. From my review of ICE records regarding AUSENCIO NAZARIO ORTIZ, the defendant, I have learned, among other things, the following:

a. NAZARIO ORTIZ is a native and citizen of Mexico and is not and has never been a citizen of the United States.

b. At least in or about April 2013, NAZARIO ORTIZ entered the United States within 100 air miles of the United States-Mexico border. NAZARIO ORTIZ did not have legal status to enter the United States.

c. On or about May 1, 2013, AUSENCIO NAZARIO ORTIZ, the defendant, was removed from the United States ("May Removal").

d. At least on or about July 8, 2013, NAZARIO ORTIZ entered the United States within 100 air miles of the United States-Mexico border. NAZARIO ORTIZ did not have legal status to enter the United States.

e. On or about July 9, 2013, AUSENCIO NAZARIO ORTIZ, the defendant, was removed from the United States ("July Removal").

f. On or about October 17, 2013, NAZARIO ORTIZ entered the United States within 100 air miles of the United States-Mexico border. NAZARIO ORTIZ did not have legal status to enter the United States.

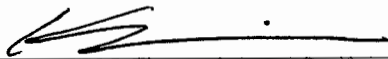
g. On or about October 19, 2013, AUSENCIO NAZARIO ORTIZ, the defendant, was removed from the United States ("October Removal").

4. Based on my review of records, I know that on or about June 25, 2018, AUSENCIO NAZARIO ORTIZ, the defendant, was arrested by the New York City Police Department ("NYPD") for attempted robbery in the second degree, in violation of New York Penal Law ("NYPL") 160.10, assault in the third degree, in violation of NYPL 120, and harassment in the second degree, in violation of NYPD 240.26 ("2018 NYPD Arrest").

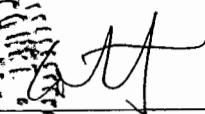
5. I have reviewed a report prepared by a trained fingerprint examiner working for ICE who compared the fingerprint impressions taken of AUSENCIO NAZARIO ORTIZ, the defendant: on or about May 1, 2013 in connection with NAZARIO ORTIZ's May Removal; on or about July 9, 2013, in connection with NAZARIO ORTIZ's July Removal; on or about October 19, 2013, in connection with NAZARIO ORTIZ's October Removal; and on or about June 25, 2018, in connection with NAZARIO ORTIZ's 2018 NYPD Arrest. The fingerprint impressions were linked to one and the same person, AUSENCIO NAZARIO ORTIZ, the defendant.

6. Based on my participation in this investigation, I know that a search of all relevant Department of Homeland Security indices has confirmed that, following his removal from the United States on or about October 19, 2013, AUSENCIO NAZARIO ORTIZ, the defendant, never obtained the express consent of the Attorney General of the United States, or the Secretary for the Department of Homeland Security, to reapply for admission to the United States.

WHEREFORE I respectfully request that a warrant be issued for the arrest of AUSENCIO NAZARIO ORTIZ, the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.

  
BYUNG K. KIM  
Deportation Officer  
Immigration and Customs Enforcement

Sworn to before me this  
13<sup>th</sup> day of DECEMBER, 2018

  
THE HONORABLE JAMES L. COTT  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK